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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,812	10/01/2001	Walter Rosenbaum	2001P12515US	5262

28204 7590 10/15/2004  
SIEMENS SCHWEIZ  
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EXAMINER

HAYES, JOHN W

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/965,812

**Applicant(s)**ROSENBAUM ET AL. *SO***Examiner**

John W Hayes

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 16-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Jones, U.S. Patent No. 6,748,318 B1.

As per **Claim 16**, Jones discloses a method of decreasing null deliveries by a driver of a delivery service of parcels delivered to a parcel recipient at a delivery location, comprising:

- a computer including a memory, processor, input means for receiving a plurality of signals indicative of delivery vehicle location with respect to a delivery location (Figures 1-2 and 8; Col. 10, lines 45-64; Col. 11, lines 23-30; Col. 14 line 40-Col. 15 line 67; Col. 19 line 58-Col. 20 line 10);
- communication means controlled by said processor for communicating with a parcel recipient at said delivery address and receiving confirmation of presence of said recipient at said delivery address (Col. 4, lines 1-6 and 50-55; Col. 11, lines 43-48; Col. 14, lines 1-6; Col. 14, lines 42-65; Col. 18, lines 20-26; Col. 20, lines 40-45; Col. 32, lines 54-58), and clock means controlled by said processor for initiating said communicating at a select time prior to arrival of said delivery vehicle at said delivery location (Col. 14, lines 1-6; Col. 18, lines 20-27; Col. 20, lines 1-14); and
- mobile data receiving means for communicating with said computer, said mobile data receiving means including output means for outputting data received from said computer (Figures 1-2 and 8; Col. 10 line 65-Col. 11 line 65).

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As per **Claim 17**, Jones further discloses wherein said plurality of signals include GPS signals (Figures 1-2; Col. 11, lines 23-27; Col. 12, lines 55-60; Col. 13, lines 15-28; Col. 7, lines 44-48).

As per **Claim 18**, Jones further discloses wherein said communication means selectively communicates with said recipient via one of: automatic calling unit, fax, e-mail, and SMS (Figure 5; Col. 4, lines 1-6 and 50-55; Col. 14, lines 42-65; Col. 20, lines 40-45).

As per **Claim 19**, Jones further discloses wherein said mobile data receiving means is a portable computer (Figures 1-2 and 8; Col. 11, lines 1-23).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones, U.S. Patent No. 6,748,318 B1 in view of Foladare et al, U.S. Patent No. 5,831,860.

As per **Claims 1 and 12**, Jones discloses a method of decreasing null deliveries of parcels by a driver from a delivery service to a parcel recipient, comprising the steps of:

- tracking, by computer, a delivery vehicle operated by said driver by electronic surveillance means (Figures 1-2 and 8; Col. 11, lines 23-30; Col. 19 line 58-Col. 20 line 10);
- at a select time prior to arrival of said delivery vehicle at a delivery location, confirming presence of said parcel recipient at said delivery location (Col. 4, lines 1-6 and 50-55; Col. 11, lines 43-48; Col. 14, lines 1-6; Col. 14, lines 42-65; Col. 18, lines 20-26; Col. 20, lines 40-45; Col. 32, lines 54-58),

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said select time calculated by said computer comprising a memory, processor, input and output means (Col. 14, lines 1-6; Col. 20, lines 1-14);

- if said recipient is not present at said delivery location, then rescheduling the delivery (Col. 35, lines 5-32).

Jones further discloses the capability of providing instructions to the driver (Figure 44) , however, does not explicitly disclose informing the driver to initiate delivery if the recipient is present at the delivery location. Jones further fails to explicitly disclose consulting a service agreement for alternate delivery instructions and relaying the instructions to the driver if the recipient is not present at the delivery location.

Foladare et al disclose a package special delivery service and teach wherein addressees are contacted prior to an impending delivery of a package to determine if the addressee is present at a delivery location. If the addressee is present, then the driver is instructed to deliver the package to the original address, and if not, then the package is redirected in mid-transit according any one of a plurality of predetermined or prestored instructions which include alternate delivery instructions such as an alternate delivery address to the shipper (Abstract; Col. 1, lines 34-57; Col. 3, lines 25-44; Col. 3, lines 57-65). Accordingly, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Jones and incorporate the ability to redirect a package based on predefined or prestored instructions provided by the addressee as taught by Foladare et al. Foladare et al provides specific motivation for this combination by indicating that it has been recognized that many individuals who receive packages are highly mobile and it would be beneficial to provide a means for allowing a package to be delivered to a person who may not be presently located at the original shipping address by redirecting the package to an alternative location (Col. 1, lines 10-20).

As per Claim 2, Jones further discloses wherein said electronic surveillance means is GPS (Figures 1-2).

As per Claim 3, Jones further discloses wherein said computer is programmed to receive GPS information, manifest information, and traffic information (Col. 11, lines 23-27; Col. 12, lines 55-60; Col.

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13, lines 15-28; Col. 13 line 65-Col. 14 line 6; Col. 7, lines 44-48; Col. 18, lines 1-11) and determine the distance of the delivery vehicle from said delivery location and an approximate time of arrival of said delivery vehicle at said delivery location (Col. 19, lines 1-8; Col. 19 line 57-Col. 20 line 45).

As per **Claim 4**, Jones further discloses wherein the selected time includes a time when a delivery vehicle is at a predetermined time from the destination point (Col. 18, lines 20-26). Jones does not explicitly specify 10-15 minutes before arrival, however, examiner submits that this would have been obvious to one having ordinary skill in the art in view of the teachings of Jones.

As per **Claim 5**, Jones further disclose wherein said step of confirming presence is performed by automated means controlled by said computer (Col. 4, lines 1-6 and 50-55; Col. 14, lines 1-6; Col. 14, lines 42-65; Col. 20, lines 40-45; Col. 32, lines 49-58).

As per **Claim 6**, Jones fails to disclose wherein confirming the presence is performed by a human operator. Folandare et al, however, discloses this feature (Col. 1, lines 45-51; Col. 3, lines 25-40). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Jones and include confirming the presence of the recipient using conventional means such as a human operator using a telephone as taught by Folandare et al in order to provide flexibility in the means for contacting the recipient.

As per **Claims 7, 9 and 11**, Jones further disclose providing a manifest to said driver said manifest being in electronic form; and remotely updating said manifest (Figures 40-45). Jones fails to explicitly disclose updating the manifest to indicate presence or non-presence of said recipient at said delivery location. Folandare et al disclose confirming the presence or non-presence of the recipient as described above. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Jones and include the capability to update the vehicle control unit disclosed by Jones in order to notify the driver that the recipient is either present or not present at the

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recipient location. The invention disclosed by Folandare et al is particularly interested in avoiding delivering a package to a recipient that is not present at the delivery address by providing alternate delivery instructions, and, therefore, it would have been obvious to notify the driver either the presence or non-presence of the recipient along with alternate delivery instructions in the event of non-presence in an effort to avoid driving to the recipient delivery location only to find out that the recipient is not there and, thereby, waste resources.

As per Claim 8, Jones further disclose providing the driver with portable data receiving means (VCU) and wherein said delivery service further comprises means for communicating with said portable data receiving means (Figures 1-2 and 44).

As per Claim 10, Jones further disclose wherein said manifest further comprises a map indicating an optimized route of delivery for said parcels (Abstract; Col. 22, lines 10-45).

As per Claim 13, Jones fail to disclose wherein said alternate delivery address comprises one of a franchise, neighbor, and next day delivery to said delivery address. Foladare et al disclose that the recipient may prestore instructions that provide information to the delivery service regarding how the package should be delivered in case the recipient is not located at the recipient address. Foladare et al does not explicitly disclose either a franchise, neighbor or next day delivery, however, this would have been obvious to one having ordinary skill in the art in view of the teachings of Foladare et al in order to provide a convenient means for the recipient to describe exactly how he/she would like the package delivered.

As per Claim 14, Jones further disclose wherein said step of confirming is performed by e-mail (Figure 6).

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As per **Claim 15**, Jones further disclose wherein said step of confirming is performed by SMS (Figure 5).

### ***Conclusion***

5. **Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Kuebert et al disclose a flexible mail delivery system and method for providing the ability to flexibly change the delivery point and time for a package while the item is en route. The recipient is contacted while the package is en route and capable of receiving instructions from the recipient to change the delivery point.



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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hayes whose telephone number is (703)306-5447. The examiner can normally be reached Monday through Friday from 5:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammell, can be reached on (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

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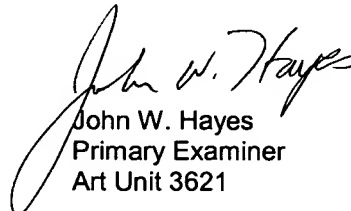
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Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington,  
VA, 7<sup>th</sup> floor receptionist.

  
John W. Hayes  
Primary Examiner  
Art Unit 3621

October 12, 2004